

**REMARKS**

This responds to the Office Action dated on October 22, 2007.

Claims 1 and 3 are amended. Claims 1-10 and 57-66 remain pending in this application.

**§102 Rejection of the Claims**

Claims 1, 6-10, 61, 65, and 66 were rejected under 35 U.S.C. § 102(b) as being anticipated by Levine (U.S. Patent No. 6,477,417, herein “Levine”).

***Claim 1***

Claim 1 has been amended to more clearly describe the recited subject matter.

Applicant respectfully traverses the rejection and submits that the Office Action does not set forth a proper *prima facie* case of anticipation because Levine does not provide the claimed subject matter. For example, Applicant is unable to find in Levine, among other things, a sensing circuit adapted to be programmed from a circuit including a filter having a first set of cutoff frequencies suitable for far-field electrogram sensing to a circuit including a filter having a second set of cutoff frequencies suitable for intracardiac electrogram sensing when a cardiac monitor controller is upgraded to a pacemaker controller, as recited in claim 1.

Because the Office Action states, in paragraph 13, that “Morgan teaches of providing a cardiac stimulator with a programmable band-pass filter”, the obviousness rejection of claim 2-5 is considered and addressed as potentially applied to claim 1 (see below, under §103 Rejection of the Claims Using Levine and Morgan).

Additionally, the Office Action states, in paragraph 3:

Since “triggered mode” is used by Levine’s device, the pacing circuit is inactive between pulses (e.g., the disclosed “time-out” period) in either the monitor (far-field sensing) mode or pacemaker (near-field sensing) mode, but is also still capable of delivering pulses in either mode (e.g., after the “time-out” interval). The limitation “adapted to be inactive” does not require that the pacing circuit be inactive at *all* times, but merely at *some* time.

(Emphases in the Office Action). This statement is respectfully traversed.

The limitation as recited in claim 1 is not merely “adapted to be inactive” but “adapted to be inactive when an implantable medical device is configured to be an implantable cardiac



monitor”. The statement quoted above appears to indicate that Levine’s pacing circuit is active at some time in its alleged “monitor mode”. In other words, according to the Office Action, Levine’s pacing circuit can be active when the device is in its alleged “monitor mode”. This contradicts claim 1, which recites a pacing circuit adapted to be inactive when an implantable medical device is configured to be an implantable cardiac monitor.

Applicant respectfully requests reconsideration and allowance of claim 1.

*Claims 6-10, 61, 65, and 66*

Applicant respectfully traverses the rejection. Claims 6-10, 61, 65, and 66 are dependent on claim 1, which is believed to be allowable for at least the reasons set forth above. Therefore, the discussion above for claim 1 is incorporated herein to support the patentability of claims 6-10, 61, 65, and 66.

Applicant respectfully requests reconsideration and allowance of claims 6-10, 61, 65, and 66.

*§103 Rejection of the Claims Using Levine*

Claims 57-60 and 62-64 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Levine.

Applicant respectfully traverses the rejection. Claims 57-60 and 62-64 are dependent on claim 1, which is believed to be allowable for at least the reasons set forth above. Therefore, the discussion above for claim 1 is incorporated herein to support the patentability of claims 57-60 and 62-64.

Applicant respectfully requests reconsideration and allowance of claims 57-60 and 62-64.

*§103 Rejection of the Claims Using Levine and Morgan*

Claims 2-5 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Levine in view of Morgan (U.S. Patent No. 5,024,221, herein “Morgan”).



*Claim 1*

Because the Office Action states, in paragraph 13, that “Morgan teaches of providing a cardiac stimulator with a programmable band-pass filter”, the obviousness rejection of claims 2-5 as potentially applied to claim 1 is hereby addressed.

Applicant respectfully submits that Levine and Morgan, individually or in combination, do not provide the claimed subject matter. For example, Applicant is unable to find in the cited in Levine and Morgan, among other things, a teaching or suggestion of a sensing circuit adapted to be programmed from a circuit including a filter having a first set of cutoff frequencies suitable for far-field electrogram sensing to a circuit including a filter having a second set of cutoff frequencies suitable for intracardiac electrogram sensing when a cardiac monitor controller is upgraded to a pacemaker controller, as recited in claim 1.

The Office Action, in paragraph 3, cites col. 2, line 2 of Levine, which relates to “bipolar or unipolar operation with respect to either sensing or pacing operations”. It appears that the Examiner considers the bipolar sensing and unipolar sensing of Levine to be the intracardiac electrogram sensing and far-field electrogram sensing as recited in claim 1. However, Applicant is unable to find in Levine and Morgan any teaching or suggestion of using different cutoff frequencies for bipolar sensing and unipolar sensing, much less different cutoff frequencies for intracardiac electrogram sensing and far-field electrogram sensing.

Applicant respectfully requests reconsideration and allowance of claim 1.

*Claims 2-5*

Claim 3 has been amended to more clearly describe the recited subject matter.

Applicant respectfully traverses the rejection. Claims 2-5 are dependent on claim 1, which is believed to be allowable for at least the reasons set forth above. Therefore, the discussion above for claim 1 is incorporated herein to support the patentability of claims 2-5.

Additionally, the Office Action indicates that Levine in view of Morgan “does not disclose expressly the claimed cutoff frequencies” but asserts that the cutoff frequencies are “an obvious matter of design choice”. The Office Action states, in paragraph 14:

It would have been an obvious matter of design choice to a person of ordinary skill in the art to modify filters as taught by Levine in view of Morgan with the claimed cutoff frequencies because applicant



has not disclosed that these frequencies provide an advantage, are used for a particular purpose, or solve a stated problem.

Applicant respectfully traverses this statement and submits that the present application discloses that the frequencies as recited in claim 4 are suitable for far-field electrogram sensing, and the frequencies as recited in claim 5 are suitable for intracardiac electrogram sensing (see, e.g., page 10, lines 26-30). Because Levine and Morgan, individually or in combination, do not provide different cutoff frequencies for intracardiac electrogram sensing and far-field electrogram sensing, the cutoff frequencies as recited in claims 4 and 5 are not “an obvious matter of design choice”.

Applicant respectfully requests reconsideration and allowance of claims 2-5.



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Title: IMPLANTABLE CARDIAC MONITOR UPGRADEABLE TO PACEMAKER OR CARDIAC RESYNCHRONIZATION  
DEVICE**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6965 to facilitate prosecution of this application.


If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,


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**CERTIFICATE UNDER 37 CFR 1.8:** The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop AF, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 21 day of December 2007.

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